

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TERRANCE ROANE,

Plaintiff,

v.

**WARDEN OF THE CORRECTIONAL
RECEPTION CENTER, et al.,**

Defendants.

Case No. 2:22-cv-2768

Judge James L. Graham

Magistrate Judge Peter B. Silvain, Jr.

ORDER

This matter is before the Court for consideration of the assigned Magistrate Judge's October 4, 2022 Report and Recommendation ("R&R"), Doc. 5. Plaintiff Terrance Roane alleges violations of the Fourth and Eighth Amendments to the United States Constitution and Ohio Rev. Code § 2921.45(A) arising from a strip search performed by Defendant Jonathan Mills in sight of other inmates. Plaintiff asserts these claims against the Warden of the Correctional Reception Center and Jonathan Mills in their individual and official capacities.

The Magistrate Judge performed a *sua sponte* review of Plaintiff's complaint pursuant to 28 U.S.C. § 1915(e)(2) and made the following recommendations:

- (1) Plaintiff's claims seeking monetary damages against Defendants in their official capacities be dismissed as barred by the Eleventh Amendment, Doc. 5 at 5;
- (2) Plaintiff's federal claims against the Warden be dismissed because liability cannot be found under 42 U.S.C. § 1983 for the mere failure to take corrective action in response to an informal complaint, Doc. 5 at 6;
- (3) Plaintiff's Ohio Rev. Code § 2921.45(A) claim be dismissed because the statute does not create a private cause of action, Doc. 5 at 6;

- (4) Plaintiff's claims for declaratory and injunctive relief be dismissed because he is no longer incarcerated at the Correctional Reception Center, Doc. 5 at 6-7; and
- (5) Plaintiff's Fourth and Eighth Amendment claims for damages against Defendant Mills in his individual capacity be permitted to proceed, Doc. 5 at 4.

The R&R specifically advised the parties that failure to object to the R&R within fourteen days "may forfeit rights on appeal." Doc. 5 at 8. The deadline for filing objections to the R&R has since expired, and no party has objected to the R&R. When no objections are timely filed, a district court reviews a magistrate judge's report and recommendation for clear error. Fed. R. Civ. P. 72, advisory committee note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

The Court finds no clear error and agrees with the Magistrate Judge's R&R, Doc. 5, and **ADOPTS** the same. Plaintiff may proceed with his Fourth and Eighth Amendment claims for damages against Defendant Mills in his individual capacity. Plaintiff's other claims are **DISMISSED**. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that for the foregoing reasons an appeal of this Order would not be taken in good faith.

IT IS SO ORDERED.

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: October 28, 2022